

LAR 110. PROCESS GENERALLY

(a) Instructions to Issue. A party who files a pleading and requires process to be issued by the clerk concerning execution shall state that party's instructions to the marshal on appropriate forms available from the Marshal's office.

(b) Process Held in Abeyance. If a party files a pleading seeking relief in rem or quasi in rem, which would require the clerk to issue process, and the party does not wish the process to be issued at that time, the party shall request, in writing, that issuance of process be held in abeyance. In any case where issuance of process is held in abeyance pursuant to the written request of a party, a subsequent written request shall be filed before the clerk shall issue process. In any case where issuance of process is held in abeyance pursuant to the written request of a party, the 120 day period of Fed.R.Civ.P. CR 4(m) will not begin to run until the process is issued by the clerk.

(c) Intangible Property.

(1) *Issuance and Effect of Summons.* The summons issued pursuant to Supplemental Rule C(3) shall direct the person having control of the funds or other intangible property to show cause, no later than 10 days after service, why the funds or other property should not be delivered to the court to abide the judgment. The court for good cause shown by plaintiff may shorten the time to a period of less than 10 days. Service of the summons has the effect of an arrest of the property and brings it within the control of the court.

(2) *Payment to Marshal.* The person who is served may deliver or pay over to the marshal the property or funds proceeded against or a part thereof sufficient to satisfy plaintiff's claim. If such payment is made, the person served is excused from any duty to show cause.

(3) *Manner of Showing Good Cause.* The claimant of the property may show cause why the property should not be delivered to the court by serving and filing a claim as provided in Supplemental Rule C(6), within the time allowed to show cause, and serving and filing an answer to the complaint within 20 days thereafter.

(4) *Effect of Failure to Show Cause.* If a claim is not filed within the time stated in the summons, or an answer is not filed within the time allowed under this rule, the person who was served shall deliver or pay over to the marshal the property or funds proceeded against or a part thereof sufficient to satisfy plaintiff's claim.

(d) Marshal's Return. The person executing process shall file proof of service with the clerk, and the marshal shall mail a copy of the return to the attorney at whose request the execution was effected.

(e) Seizure of Property Already in Custody of an Officer of the United States. Where property in the custody of an officer or employee of the United States is to be arrested or

attached, the marshal shall deliver a copy of the complaint and warrant for arrest or summons and process of attachment to such officer or employee or, if the officer or employee is not found within the district, then to the custodian of the property within the district. The marshal shall notify such officer, employee or custodian not to relinquish such property from custody until ordered to do so by the court.

[Effective May 1, 1992; amended effective July 1, 1997.]